

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
ELEVATION HEALTH LLC,

Plaintiff,

-v-

SUN GROUP PARTNERS LLC,

Defendant.

22-CV-10155 (PAE) (VF)

ORDER

VALERIE FIGUEREDO, United States Magistrate Judge.

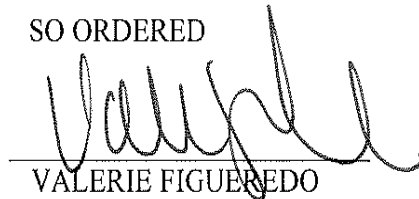
Plaintiff received a default judgment and now seeks damages on its breach of contract claim. See ECF Nos. 26-27. In its memorandum, Plaintiff does not address whether Delaware or New York law applies to the determination in a damages inquest of the appropriate amount of damages for its breach-of-contract claim. See ECF No. 27. Although Plaintiff references New York law in its memorandum, the Promissory Note that forms the basis for Plaintiff's breach-of-contract claim states that it is to be "governed by and construed in accordance with" Delaware law. See ECF No. 1-1 at 3. Plaintiff is directed to submit a letter answering the following questions on or before **January 31, 2025**:

- (1) Under New York law, a plaintiff in a breach-of-contract case is entitled to damages in the amount necessary to put the plaintiff in the same economic position as the plaintiff would have been in had the defendant fulfilled its obligation under the contract. What is the appropriate measure of damages for breach of contract under Delaware law, particularly in circumstances involving breach of a promissory note?
- (2) Plaintiff did not make a request for pre-judgment in its complaint. Similarly,

Plaintiff did not make a request for pre-judgment interest in its submissions in support of the damages inquest. See ECF No. 26 at 2. Under New York law, however, pre-judgment interest “shall” be awarded, see CPLR § 5001(a), and a successful plaintiff is entitled to pre-judgment interest at the statutory 9% rate even where the contract provides for the accrual of interest on the unpaid principal amount owed under the contract, see NML Cap. V. Republic of Argentina, 17 N.Y.3d 250, 266 (2011). Does Delaware law provide for an award of pre-judgment interest for an award of damages for breach of contract where the contract also provides for the accrual of interest on the unpaid principal amount? If so, what is the interest rate for an award of pre-judgment interest in Delaware?

Dated: New York, New York
January 17, 2025

SO ORDERED



VALERIE FIGUEREDO
United States Magistrate Judge